



melsa

an alliance of metro public libraries

DOCKET FILE COPY ORIGINAL

March 29, 2005

Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Re: Applicant Name: Hennepin County Library
Billed Entity Number: 133579
Form 471 Application Number: 359143
Form 486 Application Number: 282832
Funding Request Number(s): 970296, 970297, 970298, 970299,
970302, 970303,
970300, 970301
CC Docket Number: 02-6

Dear Office of the Secretary:

We are writing to you to discuss the recent decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) to deny our appeal for funding requested on behalf of one of our member libraries, Hennepin County Library system, for funding year 2003-2004.

As stated in the enclosed Letter of Appeal sent to SLD on December 2, 2004, MELSA did not receive a FY03 funding commitment letter for Hennepin County Library from SLD and, as a result, was unable to file Form 486. MELSA did receive funding commitment letters for the other eight member library systems during June and August of 2003 and SLD records will show that Form 486 reports were filed for these systems prior to the required due date. Unfortunately, due to staffing and other structural changes, MELSA was unaware that a funding commitment letter had not been received for Hennepin County until an internal review late in funding year 2003. We then requested a copy of the funding commitment letter but did not receive it until October 19, 2004 (after requesting it twice) at which time Form 486 was immediately filed.

No. of Copies rec'd _____
List ABCDE _____

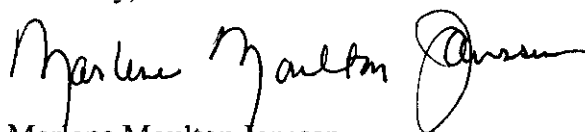


According to the enclosed Administrator's Decision on Appeal letter, the denial of our appeal is based on the fact that the Funding Commitment Decision "was not returned to SLD as undeliverable" and was, therefore, received by MELSA. We question this assumption since we have experienced many occasions in recent years when mail is delivered to us by other tenants in our building weeks after the postmarked dates; at times, we never receive correspondence that senders assure us has been mailed. It is highly possible the envelope was delivered to another office within our building or elsewhere, and simply disposed of when not recognized. While we certainly understand the importance of deadlines and adherence to proper procedures (as evidenced by MELSA's participation in the E-rate reimbursement program since its inception), we ask for leniency as it relates to an unfortunate but isolated incident not completely within our control.

In the challenging fiscal environment for libraries today, each and every dollar of revenue is critical to providing quality service to library patrons. On behalf of Hennepin County Library, we sincerely request that FCC reevaluate the decision by the SLD to deny our appeal in light of MELSA's long-term compliance and participation in the E-rate program.

We very much appreciate your consideration of the matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Marlene Moulton Janssen". The signature is fluid and cursive, with the last name "Janssen" being particularly prominent.

Marlene Moulton Janssen
Executive Director, MELSA



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

March 15, 2005

Marlene Moulton Janssen
MELSA
1619 Dayton Avenue
Suite 314
St Paul, MN 55104

Re: Applicant Name: HENNEPIN COUNTY LIBRARY
Billed Entity Number: 133579
Form 471 Application Number: 359143
Form 486 Application Number: 282832
Funding Request Number(s): 970296, 970297, 970298, 970299, 970302,
970303, 970300, 970301
Your Correspondence Dated: December 02, 2004

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2003 Form 486 Notification Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 970296, 970297, 970298, 970299, 970302,
970303

Decision on Appeal: **Denied**

Explanation:

- On appeal, you are seeking reversal of the SLD's decision to adjust the Service Start Date (SSD) and the funding commitment amount due to missing the Form 486 120-day deadline. In support of your request, you state that Hennepin County Library had been unable to file their Form 486 because they did not receive their Funding Commitment Decision Letter until October 19, 2004.
- Upon review of the appeal letter, the relevant facts, and supporting documentation, the SLD determined that the Funding Commitment Decision

Letter was not returned to SLD as undeliverable. Therefore, the Form 486 for this funding request should have been filed within 120-days calculated from the issuance date of the Funding Commitment Decision Letter or the Service Start Date as indicated on the Form 486, whichever is later. It is the responsibility of the applicant to ensure that all Forms are submitted to SLD in a timely and correct manner.

- The date of your Funding Commitment Decision Letter (FCDL) for Form 471 application 359143 was November 18, 2003. The Service Start Date reported on your Form 486 was July 1, 2003. The postmark date of your Form 486 was October 18, 2004. Since your FCC Form 486 was postmarked more than 120 days after your Service Start Date or the date of your FCDL, whichever is later, the SLD has revised your Service Start Date to the date 120 days before your Form 486 postmark date and reduced your funding commitment amount based on the adjusted Service Start Date.

The "Form 486 must be postmarked no later than 120 days after the Service Start Date featured on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later." See 2003 Funding Commitment Decision Letter, Universal Service for Schools and Libraries, Receipt of Service Confirmation Form, OMB 3060-0853, Instructions at 6. Since your Form 486 was postmarked after the 120 day filing requirement, the SLD has modified your service start date. The facts present in this appeal do not justify waiving the 120 day filing requirement. Consequently, your appeal is denied.

Funding Request Number(s): 970300, 970301

Decision on Appeal: **Dismissed**

Explanation:

- On appeal, you are seeking reversal of the SLD's decision to adjust the Service Start Date (SSD) and the funding commitment amount due to missing the Form 486 120-day deadline. In support of your request, you state that Hennepin County Library had been unable to file their Form 486 because they did not receive their Funding Commitment Decision Letter until October 19, 2004.
- Upon review of the appeal letter, the relevant facts, and supporting documentation, it was determined that no Form 486 was filed for these FRNs. Therefore, the issue you raise on appeal for this FRN is now moot and requires no action by the SLD at this time. Consequently, your appeal is dismissed.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or cancelled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options

for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: ERIC HINSDALE

Date December 2, 2003

Letter of Appeal
Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

Dear Sir:

This letter is to appeal the SLD decision to adjust service start dates on Form 486 # 282832 for all of the FRNs for Year 6 (Funding Year 2003) on Form 471 Application Number 359143. The SLD in a letter dated November 10, 2004 acknowledging receipt of our Form 486 changed the service start dates for all the FRNs to June 20, 2004. The following provides facts and our rationale for appealing the SLD decision.

1. The library never received a funding commitment letter until October 19, 2004.
2. Upon nearing the end of the funding year 2003 the library inquired about the status of our Form 471 application. We were told by Customer Service staff that the application was approved on November 18th, 2003.
3. We searched our files and checked postal deliveries and did not find any record of delivery of the funding commitment letter.
4. We called Customer Service and requested a copy via fax. We were told that they can request a fax delivery but cannot guarantee it. We waited three weeks for a copy and never received one.
5. We called again and re-requested a copy and asked if it can be faxed. We were given the same answer as previously. However, this time we did receive a copy of the funding commitment letter via fax.
6. We filed our Form 486 as soon as we had the funding commitment letter.

Given the above chronology of events, we believe that we had followed the program rules in good faith and were not able to file Form 486 within 120 days of November 18, 2003 because we had not received the funding commitment letter. The services that we applied for and were approved were received starting July 1, 2003.

We request that the SLD re-instate the service start dates for all of the FRNs for Application 359143 starting July 1, 2003. We looking forward to hearing from the SLD with a favorable response. Should you have any question, please feel free to contact me at 651-645-5731 or email me at marlene@melsa.org

Sincerely,

Marlene Moulton Janssen
Executive Director, MELSA